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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS

VS.

Indictment No.
2282CR00117

KAREN READ

* * * * *

Day 41 - Trial with Jury
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:

BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:

BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Monday, July 1, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	REXCROSS
(None)				

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P R O C E E D I N G SJuly 1, 2024

(Court in session.)

(Defendant present. Jury present.)

THE COURT OFFICER: Hear ye, hear ye, hear ye.

All parties having anything to do before the
Honorable First Justice Beverly Cannone, now
sitting in the Dedham Superior Court, in and for
the County of Norfolk, draw near, give your
attendance and you shall be heard. God save the
Commonwealth and this honorable court. Court is
now in session.

THE CLERK: 22-117, Commonwealth versus
Karen Read.

THE COURT: Good morning, counsel. Good
morning, Ms. Read. Good morning, jurors. Welcome
back.

We will ask you those same three questions.
Was everyone able to follow the instructions and
refrain from discussing this case with anyone since
we left here Friday?

Everyone said "yes" and nodded affirmatively.

Were you also able to follow the instructions
and refrain from doing any independent research or
investigation into this case?

1 Everyone said "yes" or nodded affirmatively.

2 Did anyone happen to see, hear or read
3 anything about this case since we left here on
4 Friday?

5 All right. So, Mr. Foreman, we are going to
6 send you folks back out. Thank you.
7 (Whereupon, the jury exits the courtroom to resume
8 deliberations.)

9 THE COURT: All right. Thank you, everybody.
10 (Whereupon, there was a brief recess.)

11 (Court resumes.)

12 (Defendant present. Jury not present.)

13 THE CLERK: We are back on the record on
14 Karen Read, Your Honor. We have a question from
15 the jury.

16 THE COURT: All right. So, Mr. Lally, I'd
17 like to hear from the Commonwealth first about due
18 and thorough deliberations.

19 MR. LALLY: I'm sorry. I didn't hear that,
20 Your Honor.

21 THE COURT: I'd like to hear from the
22 Commonwealth first about your view on whether the
23 jury has conducted due and thorough deliberations.

24 MR. LALLY: Your Honor, while I understand
25 that they have been at this for a while, I would

1 submit that they have not and I would ask the Court
2 not to make such a finding.

3 The reasons for that, Your Honor, is this jury
4 heard, I believe, about 29 days or so of testimony,
5 657 different exhibits marked as evidence, 74
6 different witnesses who testified before them.
7 And, while I believe they've been out for somewhere
8 in the vicinity of 22 or 23 hours, what I would
9 submit to the Court, based on all of that, as well
10 as the complexity of the issues presented to them,
11 they really haven't even had one hour of
12 deliberation equivalent to one day of testimony, to
13 each of the days of testimony that they've heard.

14 So while they have been at it for a while, I
15 would submit that based on the evidence and
16 testimony and witnesses and the complexity of
17 issues in this case, I would submit that they have
18 not done a thorough deliberation up to this point.

19 THE COURT: Mr. Yannetti?

20 MR. YANNETTI: Our view is that it's time for
21 a *Tuey-Rodriguez*, Your Honor. They have come back
22 now twice, indicating essentially that they are
23 hopelessly deadlocked. The content of this latest
24 message is that they have been over all the
25 evidence. The previous message said they did an

1 exhaustive review. This time they said that we
2 have, they have, fundamental disagreements about
3 what the evidence means and it's a matter of
4 opinion. It's not a matter of lack of
5 understanding.

6 This Court, when you sent the jury out,
7 encouraged them not to take a straw vote,
8 encouraged them to go over all of the evidence in a
9 very methodical manner. I think all indications
10 are that they've done that, and this is what
11 *Tuey-Rodriguez* is for. We'd ask the Court to give
12 it.

13 THE COURT: I think this has been an
14 extraordinary jury. I've never seen a note like
15 this reporting to be at an impasse. I do find that
16 they are now, with the additional time that they
17 went out without coming back Friday, saying that
18 they were deadlocked, is due and thorough
19 deliberations. So I am going to give *Tuey-*
20 *Rodriguez*.

21 So are they ready to come in? So why don't I
22 take a recess.

23 Nancy, you need this.

24 THE COURT REPORTER: Communication from the
25 jury is "YYY" for Identification.

1 (Whereupon, communication from the jury was entered
2 and marked Exhibit "YYY" for Identification.)

3 (Whereupon, there was as brief recess taken.)

4 (Court resumes.)

5 (Defendant present. Jury present.)

6 THE COURT OFFICER: Please rise for the jury.
7 Court is in session. Please be seated.

8 THE COURT: All right. So, jurors, I am in
9 receipt of your note. "Judge Cannone, despite our
10 commitment to the duty entrusted to us, we find
11 ourselves deeply divided by fundamental differences
12 in our opinions and state of mind. The divergence
13 in our views are not rooted in a lack of
14 understanding or effort but deeply held convictions
15 that each of us carry, ultimately leading to a
16 point where consensus is unattainable. We
17 recognize the weight of this admission and the
18 implications it holds."

19 So, Mr. Foreman and members of the jury, I
20 have an instruction for you. Our Constitution and
21 laws provide that in a criminal case, the principal
22 method for deciding questions of fact is the
23 verdict of a jury. In most cases, and perhaps
24 strictly speaking in all cases, absolute certainty
25 cannot be attained nor is it expected.

1 The verdict to which each juror agrees must,
2 of course, be his or her own verdict, the result of
3 his or her own convictions and not merely an
4 acquiescence in the conclusions of the other
5 jurors.

6 Still, in order to bring 12 minds to a
7 unanimous result, you must examine the issues you
8 have to decide with candor and with a proper regard
9 and respect for each other's opinions. You should
10 consider that it is desirable that this case be
11 decided. You have been selected in the same manner
12 and from the same source as any future jury would
13 be selected.

14 There is no reason to suppose that this case
15 will ever be submitted to 12 persons who are more
16 intelligent, more impartial or more competent to
17 decide it than you are, or that more or clearer
18 evidence will be produced in another trial.

19 With all this in mind, it is your duty to
20 decide this case if you can do so conscientiously.
21 In order to make a decision more attainable, the
22 law always imposes the burden of proof on the
23 Commonwealth to establish every essential element
24 of each indictment beyond a reasonable doubt. If
25 you are left with a reasonable doubt as to any

1 essential element of any indictment, then the
2 defendant is entitled to the benefit of that doubt
3 and must be found not guilty on that indictment.

4 In conferring together, you are to give proper
5 respect to each other's opinions and listen with an
6 open mind to each other's arguments. Where there
7 is disagreement, those jurors who would find the
8 defendant not guilty should consider whether the
9 doubt in their own minds is a reasonable one if it
10 makes no impression upon the minds of the other
11 jurors, who are equally honest and equally
12 intelligent, who have heard the same evidence with
13 the same attention, who have an equal desire to
14 arrive at the truth and who have taken the same
15 oath as jurors.

16 At the same time, those jurors who would find
17 the defendant guilty ought seriously to ask
18 themselves whether they may not reasonably doubt
19 the correctness of their judgment if it is not
20 shared by other members of the jury. They should
21 ask themselves whether they should distrust the
22 weight or sufficiency of the evidence if it has
23 failed to convince the minds of their fellow jurors
24 beyond a reasonable doubt.

25 I will now ask you, Mr. Foreman and members of

1 the jury, to return to your deliberations with
2 these instructions in mind. And, as with my final
3 instructions and the supplemental instructions I
4 sent in, I will send in a copy of this charge, as
5 well.

6 All right. So may that be marked, Madam Court
7 Reporter, please?

8 THE COURT REPORTER: Yes, Your Honor.
9 (Whereupon, communication from the jury was entered
10 and marked Exhibit "ZZZ" for Identification.)

11 THE COURT: We will send you folks back out to
12 deliberate.

13 (Whereupon, the jury exits the courtroom to resume
14 deliberations, and a brief recess was taken.)

15 (Court resumes.)

16 (Defendant present. Jury not present.)

17 THE COURT OFFICER: Please be seated. Court
18 is in session.

19 THE CLERK: 22-117, Commonwealth versus
20 Karen Read.

21 THE COURT: All right. The jury is at an
22 impasse.

23 THE COURT OFFICER: Please rise for the jury.
24 (Whereupon, the jury enters the courtroom.)

25 THE COURT OFFICER: This court is in session.

1 Please be seated.

2 THE COURT: All right. Mr. Foreman, I am in
3 receipt of your note. "Judge Cannone, despite our
4 rigorous efforts, we continue to find ourselves at
5 an impasse. Our perspectives on the evidence are
6 starkly divided. Some members of the jury firmly
7 believe that the evidence surpasses the burden of
8 proof, establishing the elements of the charges
9 beyond a reasonable doubt. Conversely, others find
10 the evidence fails to meet this standard and does
11 not sufficiently establish the necessary elements
12 of the charges.

13 The deep division is not due to a lack of
14 effort or diligence but, rather, a sincere
15 adherence to our individual principles and moral
16 convictions. To continue to deliberate would be
17 futile and only serve to force us to compromise
18 these deeply held beliefs."

19 I am not going to do that to you, folks. Your
20 service is complete. I am declaring a mistrial in
21 this case. I will be in to see you privately in a
22 few minutes, and thank you so much for your
23 service.

24 (Whereupon, the jury exits the courtroom and is
25 discharged.)

1 THE COURT REPORTER: "AAAA" for
2 Identification.

3 (Whereupon, communication from the jury was entered
4 and marked Exhibit "AAAA" for Identification.)

5 THE COURT: All right. I'd like to pick a
6 status date to find out what our next move is. So
7 I'd like to come back sometime maybe the end of
8 July. I understand people have vacation schedules.
9 Can we come in the week of the 21st?

10 THE LALLY: That's fine.

11 MR. YANNETTI: Your Honor, I'm just looking at
12 my calendar. Could we do the 22nd at 2:00 p.m.,
13 Your Honor? And I would appear for my client.

14 THE COURT: Is there another day that week?
15 Could you do the 25th or 26th?

16 MR. YANNETTI: Unfortunately, I think I am
17 supposed to leave for vacation on the 25th.

18 THE COURT: The 22nd and the 24th are not
19 great dates.

20 MR. YANNETTI: What about the 19th at nine?
21 Is that whole week not good?

22 THE COURT: No. That week is not good. I'm
23 teaching and I cannot get out of it.

24 MR. YANNETTI: Can we do August 7th, 8th, 9th,
25 any of those days?

1 THE COURT: No. We'll do the 22nd. We'll go
2 back to the 22nd.

3 MR. JACKSON: Your Honor, so the Court knows,
4 Ms. Little and I are not available on the 22nd. We
5 have a hearing in Los Angeles on the 22nd. We
6 would be proposing to appear remotely, anyway.

7 THE COURT: Okay.

8 MR. JACKSON: But, for a status conference, I
9 don't want the Court to think it's disrespectful to
10 the Court, but Ms. Little and I probably will not
11 appear.

12 THE COURT: Okay. So you and your client will
13 be here in person, Mr. Yannetti?

14 MR. YANNETTI: Yes.

15 THE COURT: All right. Thank you. We'll see
16 you then.

17 (Whereupon, the Court adjourned.)
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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 41-3 to 41-13, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 13th day of July, 2024.

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist